



# INTERNATIONAL AIR SERVICES COMMISSION

## DETERMINATION

**DETERMINATION:** [2001] IASC 113  
**THE ROUTE:** NEW ZEALAND  
**THE APPLICANT:** ASIAN EXPRESS AIRLINES  
(ACN 073 412 272) (AEA)  
**PUBLIC REGISTER FILES:** IASC/APP/200125

### 1 The application

1.1 AEA applied to the Commission on 9 August 2001 for an allocation of unlimited freight capacity on the New Zealand route.

1.2 AEA held an allocation of unlimited freight capacity on the new Zealand route under determination IASC/DET/9606 for 5 years until 24 June 2001. It has continued to operate its 5 scheduled services per week under supplementary timetable approval from the Department of Transport and Regional Services. Determination IASC/DET/9606 was not included in the renewal process initiated last year.

1.3 The Commission published a notice on 14 August 2001 inviting other applications for all or any part of the capacity and submissions from interested parties about the AEA application. No applications or submissions were received.

1.4 All material supplied by the applicant is filed on the Register of Public Documents.

### 2 Provisions of relevant air services arrangements

2.1 Under the air services arrangements between New Zealand and Australia there is unlimited freight capacity available for allocation.

### 3 Commission's assessment

3.1 Under paragraph 6.2 of the Minister's Policy Statement, in the absence of submissions about or opposing an application, the Commission is required only to apply the criteria in paragraph 4 of the Policy Statement. Under paragraph 4 the use of Australian entitlements by a carrier that is reasonably capable of obtaining the necessary approvals and of implementing its proposals is of benefit to the public.

3.2 The Commission accepts that AEA is reasonably capable of implementing its proposal to utilise freight capacity for which it has applied. It has been operating on the route for a number of years and is continuing to do so. In these circumstances, the Commission concludes that an allocation to AEA of freight capacity on the New Zealand route would be of benefit to the public.

## **4 Role of the ACCC**

4.1 The Policy Statement and its associated Explanatory Memorandum make it clear that the ACCC retains primary responsibility for competition policy matters. Nothing in the Commission's decisions should be taken as indicating either approval or disapproval by the ACCC. The Commission's decisions are made without prejudicing, in any way, possible future consideration by the ACCC.

## **5 Determination allocating capacity on the New Zealand route to Asian Express Airlines ([2001] IASC 113)**

5.1 The Commission makes a determination in favour of AEA, allocating unlimited freight capacity on the New Zealand route under the Australia – New Zealand air services arrangements.

5.2 The determination is for five years from the date of the determination.

5.3 The determination is subject to the following conditions:

- AEA is required to fully use the capacity;
- only AEA is permitted to utilise the capacity;
- changes in relation to the ownership and control of AEA are permitted except to the extent that any change:
  - results in the designation of the airline as an Australian carrier under the Australia - New Zealand air services arrangements being withdrawn; or
  - has the effect that another Australian carrier, or a person (or group of persons) having substantial ownership or effective control of another Australian carrier, would take substantial ownership of AEA or be in a position to exercise effective control of AEA, without the prior consent of the Commission; and
- changes in relation to the management, status or location of operations and Head Office of AEA are permitted except to the extent that any change would result in the airline ceasing to be an airline designated by the Australian Government for the purposes of the Australia - New Zealand air services arrangements.

Dated: 28 August 2001

Ross Jones  
Chairman

Michael Lawriwsky  
Member

Stephen Lonergan  
Member